REMARKS

Claims 1-27 are pending in the present application. Claims 2, 5, 6, 13, 16-17, and 23-27 are amended. Claims 2, 3, 5, 6, 13, 14, 16, 17, and 24-27 are independent.

Drawing Objections

The drawings, attached, submitted 15 November 2000 have not been acknowledged or accepted by the Examiner. Applicant requests that the Examiner indicate acceptance of the drawings submitted.

Allowable Subject Matter

Applicant appreciates the Examiner's indication that claims 3-4 and 14-15 are allowed.

Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 2, 5-11, 13, 16-27 stand rejected under 35 U.S.C. § 112-second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

Applicant directs the Examiner's attention to amended independent claims 2, 5, 6, 13, 16, 17, and 24-27 in which referral to the word "change" has been removed and replaced with clarifying phrases. For example, claim 2 now refers to a "difference between" rather than a "change in." Likewise several claims, for example claim 5, have been amended to refer to "a function of previous and current

measured powers" rather than "at least one of a change in measured power." Similar claim changes have been made for claims 6, 13, 16, 17, and 24-27, rendering the asserted instance of indefiniteness of claims 2, 5, 6, 13, 16, 17, and 24-27 moot. Likewise since claims 7-11 and 18-23 depend, either directly or indirectly, on claims 2, 5, 6, 13, 16, 17, and 24-27, claims 7-11 and 18-23 are definite for the same reasons and should be allowed. It should be noted that the amendments to claims 1-27 of the present application are non-narrowing amendments, made for clarifying purposes only and not to overcome any prior art or for any other statutory considerations.

In view of the above, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections under 35 U.S.C. § 112-second paragraph.

Prior Art Rejection

1. Rejection under 35 U.S.C. § 102 (b) based on Fleming et al.

Claims 24-27 stand rejected under 35 U.S.C. §102(b) as being anticipated by Fleming et al. (WO 97/13334). This rejection is respectfully traversed.

Fleming is directed to a method and apparatus for blocking a call attempt in a CDMA System. An effective load is calculated and compared against a threshold value, and if the load is greater than the threshold, the call is denied (Fleming, Abstract). In calculating the effective load, Fleming states:

> The effective load ... may be calculated ... by adding the number of calls in a target cell to a weighted summation of the number of calls in non-target cells, such as adjacent cells (Fleming, page 7, ll. 13-17),

Furthermore, Fleming states:

> For example, both reverse and forward link power measurements in target and non-target cells may be used in the effective load calculations (Fleming, page 9, ll. 33-35).

Fleming fails to show, teach, or suggest the use of "previous and current measured powers" or "previous and current number of users" in calculating a load level.

Fleming shows the adding of the number of calls in a target cell to a weighted summation of the number of calls in non-target cells. Alternatively Fleming shows the use of reverse and forward link power measurements in effective load calculations. The terms "forward" and "reverse link" are well known in the art of telecommunications, referring to the communication from the base station and from the mobile station respectively. Reverse and forward link power does not refer to previous and current measured powers. Similarly the number of calls from target and non-target cells do not refer to previous and current number of users. Therefore, Fleming fails to show, teach, or suggest all the elements of claims 24-27.

For anticipation under 35 U.S.C. § 102 "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987)(M.P.E.P. 2131).

In view of the above, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection under 35 U.S.C. § 102 based on Fleming.

CONCLUSION

In the event that there are any outstanding matters remaining in the present application, the Examiner is invited to contact the undersigned at (703) 668-8000 in the Washington, D.C. area, to discuss the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. 1.16 or under 37 C.F.R. 1.17; particularly, extension of time fees.

Respectfully submitted,

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